Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems	)	CC Docket No. 94-102

To: The Commission

COMMENTS OF OMNIPOINT COMMUNICATIONS, INC.

Omnipoint Communications, Inc. ("Omnipoint"), by its attorneys, and on behalf of Omnipoint's affiliates and subsidiaries, hereby responds to the Commission's June 9, 1999 Public Notice[1] addressing Phase I E911 implementation issues.

I. Preliminary Statement

The Commission's rules establish a phased-in approach for the provision of 911 services by wireless carriers. With respect to "enhanced" 911 services, the Phase I requirements, set forth in Section 20.18(d) of the rules, require CMRS licensees subject to the rule to provide, as of April 1, 1998, the telephone number of the originator of a 911 call and the location of the cell site or base station receiving a 911 call from any mobile handset accessing their system to the designated Public Safety Answering Point ("PSAP") through the use of Automatic Number Identification ("ANI").[2] However, this obligation applies "only if the administrator of the designated [PSAP] has requested the

1 Public Notice, Commission Seeks to Facilitate Wireless E911 Implementation and Requests a Report, FCC 99-132, released June 9, 1999 (the "June 9 Public Notice").

2 47 C.F.R. § 20.18(d).

services required under [Section 20.18(d)] and is capable of receiving and utilizing the data elements associated with the service, and a mechanism for recovering the costs of the service is in place."[3] The June 9 Public Notice cites evidence that Phase I implementation has lagged behind the April 1, 1998 deadline and suggests that the conditions of Section 20.18(f) that are a prerequisite to a carrier's Phase I obligations may be a factor in this delay.[4] The Commission notes that discussions concerning these conditions – in particular, cost recovery and choice of Phase I transmission technologies – have been ongoing between parties to the 1996 Consensus Agreement, which formed the framework for the two-phase E911 implementation rules, and asks those parties to submit a report to the Commission on the status and outcomes of those discussions.[5] The Commission also invites other interested parties to address these issues.[6]

Omnipoint is an interested party in this proceeding. Since the Commission's E911 rules became effective, Omnipoint has implemented basic 911 service throughout its licensed service areas, and has worked extensively with wireless industry groups, public safety organizations, and state and local government authorities in an effort to implement E911 services. Consequently, Omnipoint is qualified to address the cost recovery and technology issues raised in the June 9 Public Notice.

Omnipoint believes that Phase I implementation is progressing measurably and in a manner that is consistent with economic and political realities. Carriers and public

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3 47 C.F.R. § 20.18(f).

4 June 9 Public Notice at 3-4.

5 Id.

6 Id. at 7.

safety entities have worked together throughout the country to address and resolve Phase I implementation issues. Carriers have strongly supported Phase I implementation through legislative efforts, work on standards-setting bodies, and participation in various boards and task forces on the state and local government level. To be sure, obstacles exist that have prevented carriers and PSAPs from implementing Phase I E911 services as contemplated by the Commission's rules. Omnipoint looks forward to reviewing the report of the parties to the Consensus Agreement to be filed in response to the June 9 Public Notice and to continue working to implement E911 service throughout Omnipoint's service areas.

II. The Transition to Enhanced E911 Services Is Progressing In a Logical and Orderly Manner

Under the phased-in approach to wireless 911 services, carriers were required to comply with the "basic 911" service requirements by October 1, 1997.[7] By the same date, carriers were required to be capable of transmitting 911 calls made by persons with disabilities.[8]

The basic 911 service rules generally have been satisfied by carriers.[9] By the end of 1998, the first full year in which covered CMRS carriers were required to provide basic 911 service, wireless carriers transmitted nearly 100,000 emergency calls each

7 47 C.F.R. § 20.18(b).

8 47 C.F.R. § 20.18(c).

9 While "basic" 911 service by wireless carriers pursuant to Section 20.18(b) is ubiquitous, provision of 911 service under Section 20.18(c) by certain carriers has been impeded by an inability to transmit 911 calls made from TTY devices using digital wireless systems. Consequently, the Commission has granted limited waivers of Section 20.18(c) to certain carriers who had requested such waivers as of December 30, 1998. Order, FCC 98-345, released Dec. 30, 1998.

month, a nearly 100% increase in just four years.[10] This represents a remarkable increase in access to emergency calling services to all Americans and demonstrates carriers' commitment to providing critical services.

With basic 911 service in place, carriers and PSAPs have focused their attention and resources on the provision of enhanced 911 services. Such services are becoming more widespread. In fact, carriers generally have exceeded their Section 20.18 obligations, by actively assisting the public safety community in advocating workable legislative measures and participating in the adoption of technical standards.

The joint efforts of carriers and public safety officials have paid off. Presently, nearly 300 PSAPs in 13 states, having satisfied the conditions in Section 20.18(f), have requested Phase I service from carriers; only a few states have not addressed in some manner E911 implementation issues. In short, carriers and PSAPs have worked together to address local implementation of the E911 rules. These cooperative efforts have helped lay a foundation for ubiquitous wireless E911.

In Omnipoint's view, concern about the present lack of ubiquitous E911 service gives short shrift to the possibility that the Phase I deadline may have been overly ambitious. At the time Section 20.18 was adopted, it may have been impossible for the Commission to forecast the enormous amounts of time, effort, and funds that must be committed in order to deliver E911 services throughout the nation. However, those resources are being committed, and the results are encouraging.

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10 Comments of NENA in Response to Requests for Waiver of Enhanced 9-1-1 Phase II Requirements, CC Docket No. 94-102, filed June 10, 1999, at 2.

Furthermore, wireless E911 implementation should be considered in the historical context of 911 service availability. Landline E911 service began in 1968, yet even today is not ubiquitous.[11] In 1976, eight years after the initiation of 911 service, just 17% of the nation's population had access to the service; this figure grew to just 26% of the population by 1979, and by that time only nine states had enacted 911 legislation.[12] When wireless 911 rules were adopted in 1996, nearly 30 years after the introduction of basic landline 911 service, only 89% of landline telephones had access to such service, and just 85% had access to enhanced 911 services.[13] In contrast, the wireless 911 rules contemplated the comprehensive, nationwide introduction of enhanced 911 services within a mere 18 months. It is not apparent from the record that any comparison of the deployment of landline 911 service was conducted in the wireless 911 proceeding in order to determine the feasibility of such an ambitious schedule, or of what obstacles might be faced. In any event, it appears that wireless E911 implementation is progressing favorably in comparison to landline 911 implementation, and that the pace of wireless implementation actually is more rapid than that of wireline systems, notwithstanding the unique challenges of implementing 911 service in mobile environment.[14]

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11 See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Report and Order, 11 FCC Rcd 18676 (1996) ("E911 Report and Order"), paras. 3, 5.

12 See http://www.nena9-1-1.org/History%20of%20NENA%20and%20911/history3.htm.

13 E911 Report and Order, para. 5.

14 See E911 Report and Order, para. 7 (noting that "[t]he mobile nature of wireless technology creates complexities for providing even basic 911 service."). Nonetheless, wireless basic 911 service is now ubiquitous within current wireless service areas due to the efforts of carriers and PSAPs.

Although substantial progress is being made, the reality is that Phase 1 implementation can occur only when issues regarding PSAP upgrades (of equipment, mapping and addressing) and 911 infrastructure (including trunking, signaling, selective routers, and ALI database) are resolved. Each of these actions requires analysis, political support and funding before they can be accomplished. Wireless carriers have little control over the timing of these actions, and, in fact, carriers are dependent on the completion of PSAP and LEC actions before they can comply with their Phase I obligations. Nonetheless, these actions are being accomplished more rapidly than they were for landline 911 and Phase I implementation is occurring throughout the country.

III. Substantial Progress Is Being Made in the States to Establish Cost Recovery Mechanisms

Section 20.18(f) requires that a cost recovery mechanism be in place before a PSAP administrator requests Phase I E911 service. The Commission has declined to adopt specific cost recovery rules, preferring to allow the states flexibility to adopt alternative solutions. According to the Commission, however, this flexibility "has not produced the prompt implementation we envisioned." June 9 Public Notice at 4.

Omnipoint believes that measurable progress has been made on cost recovery issues. Without a source of revenue to fund wireless E911 service and without a mechanism through which to disburse these funds, a PSAP is unable to request E911 service. PSAPs typically do not have ready access to the revenue necessary to prepare for Phase I implementation, including wireless upgrades. Consequently, PSAPs have sought state funds and have advocated cost recovery legislation that includes funding for upgrades.

To assist PSAPs, carriers have actively participated in, and often have led, efforts to draft and secure enactment of workable legislation to permit subscriber surcharges or other cost recovery mechanisms. In several states, carriers have pooled their lobbying resources in support of public safety on legislation addressing the full range of Phase I implementation issues. To date, wireless E911 legislation has been enacted in approximately 27 states, and some 18 states have adopted, or are expected to adopt this year, some form of cost recovery rules. Many of these actions are recent, and may be expected to lead to substantial near-term increases in Phase I deployment in these states. Even in states where no E911 legislation has yet been enacted, or where cost recovery rules have not been adopted, carriers and PSAPs have expended substantial resources preparing and advocating such measures.[15] These efforts have helped lay a foundation for future legislation.

In addition to legislative efforts, carriers have helped various groups address cost recovery and other implementation issues. For example, in Colorado, where a surcharge already has been approved and is in place, a statewide E911 Task Force currently is studying the role of the local exchange carrier (U S West) in the cost recovery process.

The need for legislative solutions in all 50 states undoubtedly has led to delays in Phase I implementation similar to delays experienced during landline 911 deployment. In some cases, carriers and PSAPs are delayed simply by legislative cycles. (For example, Kentucky's legislature meets only every other year; nonetheless, legislation was crafted

15 For example, in New Jersey, wireless carriers have worked extensively with legislators and members of the public safety community regarding amendments to the state's 911 statute. However, the critical issue of funding needed to complete wireless E911 deployment was deferred until a subsequent legislative session.

and introduced, and passed during the 1998 session, and cost recovery rules were expected to be completed in July.) In a handful of states, progress has been impeded simply by a lack of understanding of the need for Phase I and the necessity of a cost recovery mechanism as required by the Commission's rules. For example, in Texas and California, state officials have questioned the need for Phase I service and have indicated that they may not deploy Phase I technologies. In other states, legislative efforts have foundered while critical issues are debated and resolved. These issues include the need for parity between landline 911 and wireless 911 statutes so that wireless carriers are not competitively disadvantaged, LEC interconnection charges that overwhelm cost recovery efforts, and the collection of wireless surcharges that are not being used to fund cost recovery.[16]

Cost recovery and parity issues also include the question of liability. Liability protection, and associated insurance costs, are a true cost of providing E911 service. State authorities requesting E911 compliance by wireless carriers must provide a mechanism for wireless liability protection, either through legislative action or by allowing recovery of the carrier's liability insurance costs associated with the service. In this instance, Omnipoint believes a nationwide solution, such as those offered by bills currently pending in Congress (S. 800 and H.R. 438), would be more suitable than state-

16 For example, New York, California, and Maryland have collected surcharges for some time without implementing Phase I services; Rhode Island, which imposed a $0.47 per month per subscriber E911 surcharge, has allocated such funds for other purposes.

by-state plans in light of the fact that a single wireless system can encompass multiple states and mobile E911 callers regularly pass from one jurisdiction to another.[17]

In sum, much has been accomplished in the relatively brief period of time since the Commission adopted its E911 implementation rules, and where Phase I service has not been implemented, obstacles to such implementation are being addressed.

IV. Sufficient Technology Choices Are Available to Allow Implementation Following Good Faith Negotiations

Under the phased-in E911 implementation scheme, the Commission determined that carriers and PSAPs should work jointly to resolve technical and operational issues related to implementation. The parties generally have fulfilled their obligations in this regard, having participated in the development of standards for Phase I technologies. Carriers and public safety entities have worked together in the Wireless E9-1-1 Implementation Ad Hoc ("WEIAD"), the National Emergency Number Association ("NENA") Technical Development Conference, and similar bodies, and in various technology trials. As a result of these efforts, there are multiple Phase I technology choices, which should allow implementation to proceed. Disputes over technology choice can occur if the parties to the negotiations each *insist* on using disparate approaches. Given the infrequent nature of these impasse situations, the Commission should address them as exceptions rather than the norm. Overcoming the rare obstacles through sweeping changes to the entire landscape of the generally successful carrier/PSAP negotiations is inappropriate and unnecessary.

17 Omnipoint notes that it has sought reconsideration of the Wireless Telecommunications Bureau's December 18, 1998 Declaratory Ruling, DA 98-2572, that a covered carrier is obligated to deploy E911 service even where the state has not provided immunity from liability for E911 services and does not compensate for the costs of E911 liability insurance.

V. Conclusion

Phase I implementation is progressing at a faster pace than did landline 911. The success of the landline 911 system, combined with the ongoing cooperative efforts of the carrier and public safety communities, have enabled this relatively rapid wireless 911 deployment. While the overly optimistic timelines established in the Phase I rules may have been avoided by reference to the landline 911 experience, the Commission should not create the potential for additional delay by taking unnecessary action now. Cost recovery and technology choice issues are being addressed and resolved while a relatively aggressive implementation pace is being maintained. The current process is working well and should not be adjusted solely because implementation has lagged behind an unrealistic deadline. Instead, the Commission should revise its Phase I implementation schedule taking into account factors such as the landline 911 deployment experience, as well as the record as supplemented in response to the June 9 Public Notice.

Respectfully submitted,

OMNIPOINT COMMUNICATIONS, INC.

By: 

Mark J. Tauber
E. Ashton Johnston

Piper & Marbury L.L.P.
1200 19th Street, N.W.
7th Floor
Washington, D.C. 20036
(202) 861-3900

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Its Attorneys